

EXHIBIT D

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: Commercial Part 52

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MATLINPATTERSON GLOBAL ADVISERS, LLC,

Petitioner-Sublessor,

-against-

M.J.G. MERCHANT FUNDING GROUP LLC

Entire Leasable Portion of the ninth (9th) floor
in the building known as
70 East 55th Street
New York, New York 10022,

Respondent-Subtenant,

"XYZ CORP."¹,

Respondent-Sub-Undertenant.
-----X

Business

Index No. L&T _____/17

**NOTICE OF PETITION
FOR HOLDOVER SUMMARY
PROCEEDING COMMERCIAL**

Petitioner's

Business Address

% Smith & Krantz, LLP of Counsel
122 East 42nd Street, Suite 1518
New York, New York 10168

To the respondent[s] above named and described, in possession of the premises hereinafter described or claiming possession thereof:

PLEASE TAKE NOTICE, that a hearing at which you must appear will be held at the Civil Court of the City of New York, County of New York, at 111 Centre Street, Part 52, Room 353, City and State of New York, County of New York, on **DECEMBER 28, 2017**, at 9:30 o'clock in the forenoon of that day, on the annexed petition of **MATLINPATTERSON GLOBAL ADVISERS, LLC**, verified on December 15, 2017, which prays for a final judgment of eviction, awarding to Petitioner-Sublessor the possession of premises described as follows: Entire Leasable Portion of the ninth (9th) floor in the building known as 70 East 55th Street, New York, New York 10022, City, State of New York, County of New York as demanded in the petition which you must answer. Your answer may set forth any defense or counterclaim against the Petitioner-Sublessor, unless such defense or counterclaim is precluded by law or prior agreement between the parties.

TAKE NOTICE also that demand is made in the petition for judgment against you for rental arrears and or use and occupancy in no less than the sum of **\$40,374.96** and rent due December 1, 2017 through December 11, 2017, with interest from October 2017, post termination use and occupancy, plus attorney's fees in an amount to be determined by the Court but in no event less than \$3,000.00, costs and disbursements of this proceeding.

1 The name of "XYZ Corp." Sub-Undertenant(s), is fictitious and unknown to Petitioner. The entity intended is that which is in possession of the premises herein described.

TAKE NOTICE also that if you fail to interpose and establish any defense that you may have to the allegations of the petition, you may be precluded from asserting such defense or the claim on which it is based in any other proceeding or action.


TAKE NOTICE, that under Section 745 of the Real Property Actions and Proceedings Law, you may be required by the Court to make a deposit of use and occupancy, or a payment of use and occupancy to the petitioner, upon your second request for an adjournment or if the proceeding is not settled or a final determination has not been made by the Court within 30 days of the first court appearance. Failure to comply with an initial deposit or payment order may result in the entry of a final judgment against you without a trial. Failure to make subsequent required deposits or payments may result in an immediate trial on the issues raised in your answer.

In the event you fail to answer or appear, final judgment by default may be entered against you for relief demanded in the petition.

Dated: New York, New York
December 18, 2017

CAROL ALT
Clerk of the Civil Court of New York
CAROL ALT, CHIEF CLERK

OLSHAN FROME WOLOSKY LLP
Attorneys for Petitioner-Sublessor

By: 
LORI MARKS ESTERMAN, ESQ.
AMELIA J. HOCHMAN, ESQ.
1325 Avenue of the Americas
New York, New York 10019
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(212) 661-0279

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: Commercial Part 52

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MATLINPATTERSON GLOBAL ADVISERS, LLC,

Petitioner-Sublessor,

-against-

M.J.G. MERCHANT FUNDING GROUP LLC
Entire Leasable Portion of the ninth (9th) floor
in the building known as
70 East 55th Street
New York, New York 10022,

Respondent-Subtenant,

"XYZ CORP."²,

Respondent-Sub-Undertenant.
-----X

Business

Index No. L&T _____/17

**VERIFIED PETITION
FOR HOLDOVER SUMMARY
PROCEEDING COMMERCIAL**

Petitioner's

Business Address

% Smith & Krantz, LLP of Counsel
122 East 42nd Street, Suite 1518
New York, New York 10168

The petition of **MATLINPATTERSON GLOBAL ADVISERS, LLC**, Sublessor
of the premises, shows that:

1. Petitioner-Sublessor is the Sublessor of the premises described below.
The undersigned is one of the attorneys of the Petitioner-Sublessor, a Limited Liability
Company authorized to do business in the State of New York.

2. **M.J.G. MERCHANT FUNDING GROUP LLC**, was the subtenant of
the premises pursuant to a written Agreement of Sublease dated July 7, 2017, between
Petitioner as Sublessor and Respondent as Subtenant.

3. Upon information and belief, Respondent-Subtenant is in possession
of the premises.

4. Upon information and belief, Respondent-Sub-undertenant "**XYZ
Corp.**" is the sub-undertenant of the premises.

1 The name of "XYZ Corp." Sub-Undertenant(s), is fictitious and unknown to
Petitioner. The entity intended is that which is in possession of the premises herein
described.

5. The premises from which removal is sought are described as follows:

Entire Leasable Portion of the ninth (9th) floor
in the building known as
70 East 55th Street
New York, New York 10022

which is situated within the territorial jurisdiction of the Civil Court of the City of New York, County of New York.

6. The term for which the premises was rented by the Respondent-Sublessor was terminated on **DECEMBER 12, 2017**, pursuant to a written Five (5) Day Notice of Termination, a copy of which together with a copy of the affidavit of service is annexed hereto and made part hereof.

7. The Respondent-Subtenant continues in possession of the premises without permission of the Petitioner-Sublessor, after the expiration of said term.

8. Petitioner lacks written information or notice of any address where the Respondent resides, is employed, has a place of business in New York State, other than the Premises to be recovered herein and **P. ROBERT ANGONA**, 244 Fifth Avenue, Suite R276, New York, New York 10001.

9. The premises are not subject to Rent Control, Rent Stabilization or the Emergency Tenant Protection Act of 1974 because they are rented for business purposes.

10. Respondent-Sublessor has failed to pay rent and additional rent and/or use and occupancy for the premises in the amount of no less than **\$40,374.96** and rent due for the period December 1, 2017 through December 11, 2017.

11. The fair and reasonable value of Respondent-Sublessor's use and occupancy, "post-termination", of the premises is at the rate of at least \$25,771.25 per month.

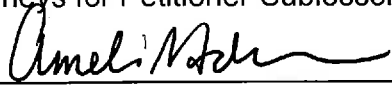
WHEREFORE, Petitioner-Sublessor requests a final judgment awarding Petitioner-Sublessor (a) possession of the premises with the issuance of a warrant of eviction to remove Respondents from possession from the premises; (b) a money judgment against Respondent-Subtenant for unpaid rent and additional rent in the amount of **\$40,374.96** and rent for the period December 1, 2017 through December 11, 2017, with interest from October 2017 plus "post-termination" use and occupancy of the premises in an amount to be determined by the Court but believed to be no less than \$25,771.25 per month; (c) for attorney's fees in an amount to be determined by the Court but believed to

be no less than \$3,000.00; and (d) the costs and disbursements of this proceeding to be determined by the Court.

Dated: New York, New York
December 18, 2017

OLSHAN FROME WOLOSKY LLP
Attorneys for Petitioner-Sublessor

By:



LORI MARKS ESTERMAN, ESQ.
AMELIA J. HOCHMAN, ESQ.

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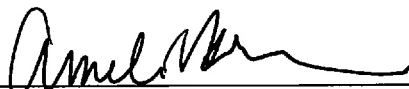
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STATE OF NEW YORK)
) :ss.
COUNTY OF NEW YORK)

The undersigned being one of the attorneys for the petitioner herein, hereby affirms under penalties of perjury and pursuant to CPLR 2106 that he has read the foregoing Petition and knows the contents thereof to be true to deponent's own knowledge except as to those matters which are alleged upon information and belief and as to them deponent believes them to be true. The source of your affirmant's information and belief are oral statements, books and records furnished by the Petitioner, its agent and/or employees and material contained in the office files. This affirmation and verification is made pursuant to RPAPL 741. In addition, this verification is made pursuant to CPLR 3020(d) because Petitioner's office is not in the County where it attorneys have their office. The attorney's signature below is also pursuant to Section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR).

Dated: New York, New York
December 18, 2017


LORI MARKS ESTERMAN, ESQ.
AMELIA J. HOCHMAN, ESQ.
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